

**MEDICAL EXAMINING BOARD
MINUTES
SEPTEMBER 16, 2009**

PRESENT: Carolyn Bronston, Jude Genereaux, Dr. Jerold Harter, Dr. Sujatha Kailas (left the meeting at 1:08 p.m.), Dr. Jack Lockhart, Dr. Raymond Mager, Dr. Suresh Misra, Dr. Ian Munro (arrived at 8:10 a.m.), Dr. Gene Musser, Dr. Sandra Osborn, Dr. Bhupinder Saini (left the meeting at 1:08 p.m.), Dr. Sheldon Wasserman

EXCUSED: None.

STAFF: Gail Sumi, Division Administrator; Michael Berndt, General Counsel; Colleen Baird, Legal Counsel; Kimberly Wood, Bureau Assistant; other DRL staff

GUESTS: Judy Warmuth, Wisconsin Hospital Association (WHA); Mark Grapentine, Wisconsin Medical Society (WMS); Patricia Epstein, Bell, Geirhart & Moore; Anne Hletko, Council on Physician Assistants; Jeremy Levin, Rural Wisconsin Health Care; Biji B. Theckedath

CALL TO ORDER

Gene Musser, Chair, called the meeting to order at 8:07 a.m. a quorum of eleven (11) members was present.

APPROVAL OF AGENDA

Amendments to the Agenda:

- After Item “B” (Open Session) “Requests for Disciplinary Proceeding Presentations Received in the Bureau After Mailing of the Agenda” – ADD:
 - Presentation of Proposed Stipulation in the Matter of Disciplinary Proceedings Against Ashok K.V. Kumar, M.D., 07 MED 062
- Item “C” (Open Session) “Administrative Report”:
 - REMOVE: Discussion of Division of Enforcement Project
 - ADD: Consideration of American Recovery and Reinvestment Act (ARRA) Grant Program: Reducing or Eliminating Barriers to Physician Licensing and Telemedicine Practice
 - MEB in Marshfield for the November 18 Meeting
- Item “D” (Closed Session) “Request for Waiver for 12 Months of ACGME Approved Graduate Training Based on Education and Experience and Waiver of ECFMG Requirement, Biji B. Theckedath, M.D.” – ADD:

- Additional Information in Support of Dr. Theckedath's Waiver Request
- After Item "J" (Closed Session) "Deliberation of Stipulations Received After Mailing of the Agenda" – ADD:
 - Deliberation of Proposed Stipulation in the Matter of Disciplinary Proceedings Against Ashok K.V. Kumar, M.D., 07 MED 062
- After Item "J" (Closed Session) "Issuance of Complaints Received in the Bureau After Mailing of the Agenda" – ADD:
 - Kevin J. Lang, M.D., 09 MED 102
 - Larry B. Dean, M.D., 08 MED 261
 - Robert J. Bernardoni, M.D., 06 MED 292
- After Item "J" (Closed Session) "Consider Closing Disciplinary Investigations with Warnings Received in the Bureaus After Mailing of the Agenda" – ADD:
 - R.B., 06 MED 292
- After Item "L" (Closed Session) "Monitoring Cases Received in the Bureau After Mailing of the Agenda" – ADD:
 - Victoria Fetter, M.D. – Request for Modification
- After Item "L" (Closed Session) "Impaired Professional Procedure (IPP): Deliberation Regarding Whether to Allow R.L. to have his IPP Monitoring Handled Primarily by Minnesota's Health Professionals Services Program (HPSP)

MOTION: Suresh Misra moved, seconded by Raymond Mager, to approve the agenda as amended. Motion carried unanimously.

(Dr. Ian Munro joined the meeting at 8:10 a.m.)

APPROVAL OF MINUTES OF AUGUST 19, 2009

Amendments to the Minutes:

- Page 6 of the Minutes: "Oral Arguments in the Matter of Disciplinary Proceedings Against Frank J. Salvi, MD, LS0707201" Change the note made under this presentation as follows: "(Michael Berndt, General Counsel, ~~and~~ Jack Lockhart, and Sandra Osborn left the room..."
- Page 7 of the Minutes: "FSMB Update" Change the 6th paragraph, 1st sentence to read: "Sandra Osborn requested suggestions from the Board regarding ~~the~~ editorials and articles published in the FSMB Journal..."

MOTION: Raymond Mager moved, seconded by Jerold Harter, to approve the minutes of August 19, 2009 as amended. Motion carried unanimously.

**PRESENTATIONS OF PROPOSED STIPULATIONS, FINAL
DECISIONS AND ORDERS**

WILLIAM B. HOBBS, MD

DOE Attorney Jack Zwieg presented a Proposed Stipulation and Final Decision and Order in the matter of disciplinary proceedings against William B. Hobbs, MD. This matter will be deliberated in closed session.

(Patricia Epstein, attorney for the respondent, was present to observe the presentation of Dr. Hobbs's proposed stipulation.)

THOMAS C. JOHNSON, MD

DOE attorney Jack Zwieg presented a Proposed Stipulation and Final Decision and Order in the matter of disciplinary proceedings against Thomas C. Johnson, MD. This matter will be deliberated in closed session.

WALTER MELNYCZENKO, MD

DOE attorney Pamela Stach presented a Proposed Stipulation and Final Decision and Order in the matter of disciplinary proceedings against Walter Melnyczenko, MD. This matter will be deliberated in closed session.

PATRICK J. MURPHY, MD

DOE attorney Jack Zwieg presented a Proposed Stipulation and Final Decision and Order in the matter of disciplinary proceedings against Patrick J. Murphy, MD. This matter will be deliberated in closed session.

JEFFREY C. THOMAS, MD

DOE attorney Jack Zwieg presented a Proposed Stipulation and Final Decision and Order in the matter of disciplinary proceedings against Jeffrey C. Thomas, MD. This matter will be deliberated in closed session.

**REQUESTS FOR DISCIPLINARY PROCEEDING PRESENTATIONS
RECEIVED IN THE BUREAU AFTER MAILING OF AGENDA**

Presentation of Proposed Stipulation and Final Decision and Order in the Matter of Disciplinary Proceedings Against Ashok K.V. Kumar, MD, by Attorney Pamela Stach

DOE attorney Pamela Stach presented a Proposed Stipulation and Final Decision and Order in the matter of disciplinary proceedings against Ashok K.V. Kumar, MD. This matter will be deliberated in closed session.

ADMINISTRATIVE REPORT

Gail Sumi advised the Board that its November 18, 2009 meeting will be held offsite in Marshfield. An update regarding the planning of this meeting was provided.

Appearance by Secretary Jackson to Discuss the Impaired Professionals Procedure (IPP) Task Force Recommendations with the Board and to Update the Board on the New Medical Examining Board and Answer any Questions Regarding the Organizational Structure

Secretary Celia Jackson came before the Board to discuss recommendations made by the IPP Task Force and updated the Board on the progress of the new Medical Examining Board Bureau.

Secretary Jackson updated the Board on the progress of the newly created bureau which will be responsible for the regulation of the Medical Examining Board and its affiliated credentialing boards, committees and councils. The Secretary noted that a total of eight (8) new positions have been granted to the Department for the purpose of staffing the new bureau. Six (6) of the eight (8) positions will be permanent full time positions and the other two (2) positions will be two (2) year project positions. It was indicated that the Department has not hired for any of these positions yet but have obtained hiring authority from the Department of Administration. The transfer of existing staff to the new bureau is anticipated to occur by the end of September and the new positions are estimated to be filled in about 60 – 90 days. During this update Secretary Jackson informed the Board of the Department's commitment to close new cases within 18 months.

The Board was then informed that Secretary Jackson is currently presenting the recommendations made by the IPP Task Force to various boards in an effort to collect feedback. Secretary Jackson provided a PowerPoint presentation concerning the recommendations of the IPP Task Force to the Board. A printed copy of this presentation was distributed to the Board's membership. The recommendations were reviewed individually to allow for questions to be answered and for comments to be provided. Secretary Jackson; Sharon Henes, Department Monitor/IPP Coordinator; and Marvin

Robinson, Jr., Administrator – Division of Enforcement answered questions regarding these recommendations.

Consideration of American Recovery and Reinvestment Act (ARRA) Grant Program: Reducing or Eliminating Barriers to Physician Licensing and Telemedicine Practice

Gail Sumi advised the Board that Tom Ryan, Bureau Director, has been in contact with Nina Antoniotti, Marshfield Clinic, regarding grants. Ms. Antoniotti had assisted in the drafting of the Board's grant application to the Public Health Service. Although the application to the Public Health Service was unsuccessful it was indicated that the grant application was noteworthy and as such the Board was encouraged to apply for another grant. The Board reviewed an e-mail from Nina Antoniotti, Marshfield Clinic, to Tom Ryan regarding the grant program offered by the ARRA. After review and discussion of this e-mail correspondence the Board took the action noted in the motion below. This matter will be revisited at a future meeting.

MOTION: Sujatha Kailas moved, seconded by Suresh Misra, in support of the Department moving forward with the creation of a grant application to the American Recovery and Reinvestment Act (ARRA) grant program. Motion carried unanimously.

SCREENING PANEL REPORT

Jude Genereaux reported that thirty-four (34) cases were screened, that fourteen (14) cases were opened and that one (1) ten (10) day letter was sent.

LEGISLATIVE LIAISON REPORT

Discussion of National All Schedules Prescription Electronic Reporting Act (NASPER)

At the August meeting the Board reviewed 2009-10 AB 227 directing the Pharmacy Examining Board to create a program to monitor the dispensing of prescription drugs. During the Board's August review of AB 227 a question was raised regarding the monitoring program outlined in this bill. Gail Sumi and Gene Musser worked to discern why NASPER was not included as a monitoring program being utilized.

Gene Musser informed the Board that a recent amendment to AB 227 includes the utilization of the monitoring program, NASPER, in addition to the program listed in the original draft, the Harold Rogers Prescription Monitoring Program. The Board was advised of the history of these programs and the differences between the two monitoring programs. Mark Grapentine addressed the Board regarding the status of this bill in the

legislative process. It was noted that if this bill passes the Department will need to submit grant applications to obtain funding.

Update: Chelation Informed Consent Rule

Gene Musser informed the Board that he has requested that this item be added to the agenda as an ongoing item. It was noted that there is no information to report at this meeting; however a status report shall be provided at the October meeting.

Update: GME for Licensure – 1 to 3 Years

The Board was informed that this is another item which has been added to the agenda as an ongoing item. Again it was stated that there is no information to report at this meeting; however this item will be discussed in October.

Update: Criminal Background Checks

The Board noted that this is the last of three items which have been added to the agenda on an ongoing basis. There was no information to report at this time but a status report will be given at the Board's next meeting.

FSMB UPDATE

Gene Musser referred to an article in the September 4, 2009 edition of the "Board Net News" which indicated that Texas is establishing a physician help program. It was requested that the Department contact Texas for information on the implementation of this program.

Gene Musser reported that the FSMB Education Committee will meet via teleconference in a couple of weeks and advised the Board that he had nothing to report at this time.

Sujatha Kailas reported that she had nothing to report concerning the FSBM Nominating Committee other than the recent nomination of Regina Benjamin as United States Surgeon General.

Sandra Osborn reported to the Board regarding her involvement with the "FSMB Journal" Editorial Board and offered to convey any comments the members of the Board may provide.

PRACTICE QUESTIONS

The Respiratory Care Practitioners Examining Council Asked the MEB to Consider Whether a Practitioner Transferring Patients Across State Lines Needs to be Licensed in Both States?

Michael Berndt reviewed a question posed by the Respiratory Care Practitioners Examining Council with the Board. Michael Berndt advised that there is no clear cut rule relating to this question. The Board discussed the issue of patient transfer across state lines and noted that a number of health related professionals could be affected by this issue. Anne Hlekto, Council on Physician Assistants, provided comments to the Board. This issue was referred back to Michael Berndt for further review based upon today's discussion. This item will be revisited at a future meeting.

INFORMATIONAL ITEMS

None.

OTHER BUSINESS

Michael Berndt advised the Board that the Department is hosting two government officials from Minhang District in Shanghai. Xiao Xiao works in Minhang District's Department of Urban Management & Supervision. Bi Hong is a Section Chief in one of the towns in Minhang District.

As part of the internship with the Department Xiao Xiao and Bi Hong are meeting with Department staff from each division and are attending Board meetings. It was requested that the Board allow these interns to observe closed session.

PUBLIC COMMENTS

None.

CONVENE TO CLOSED SESSION

MOTION: Sandra Osborn moved, seconded by Ian Munro, to adjourn to closed session pursuant to Wisconsin State statutes 19.85(1)(a)(b)(f) and (g) for the purpose of conducting appearances, reviewing monitoring requests and requests for licensure, deliberating on stipulations, administrative warnings, proposed decisions and orders, consulting with Legal Counsel and considering Division of Enforcement case status reports. Roll call vote: Carolyn Bronston-yes; Jude Genereaux-yes; Jerold Harter-yes; Sujatha Kailas-yes; Jack Lockhart-yes; Raymond Mager-yes; Suresh Misra-yes; Ian Munro-yes; Gene Musser-yes; Sandra Osborn-yes; Bhupinder S. Saini-yes; Sheldon Wasserman-yes. Motion carried unanimously.

Open Session recessed at 10:09 a.m.

RECONVENE IN OPEN SESSION

MOTION: Jerold Harter moved, seconded by Ian Munro, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 1:16 p.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION IF VOTING IS APPROPRIATE

MOTION: Jerold Harter moved, seconded by Ian Munro, to reaffirm all motions made during closed session. Motion carried unanimously.

BIJI B. THECKEDATH, MD REQUEST FOR WAIVER OF 12 MONTHS ACGME APPROVED POST-GRADUATE TRAINING AND WAIVER OF THE ECFMG REQUIREMENT

Dr. Biji B. Theckedath, MD, appeared before the Board to answer questions regarding her waiver request. Additional information in support of Dr. Theckedath's request was received after the mailing of the agenda and was provided to the Board for review.

MOTION: Sandra Osborn moved, seconded by Raymond Mager, to approve the request for a waiver of the requirement for the twelve (12) months of ACGME approved post-graduate training and the waiver of the ECFMG requirement and to find the education of Biji B. Theckedath, MD substantially equivalent. Motion carried. Opposed – Five (5)

DELIBERATION OF PROPOSED DECISIONS AND ORDERS

OSSAMA ABDELLATIF, MD (LS0904201MED)

MOTION: Carolyn Bronston moved, seconded by Bhupinder Saini, to adopt the Proposed Decision, Findings of Fact, Conclusions of Law and Order in the matter concerning Ossama Abdellatif, MD (AKA: Ossama Hassan), LS0904201MED. Motion carried unanimously.

FRANK J. SALVI, MD (LS0707201MED)

MOTION: Ian Munro moved, seconded by Jerold Harter, to adopt the Proposed Decision, Findings of Fact, Conclusions of Law and Revised Order in the matter concerning Frank J. Salvi, MD, LS0707201MED. Motion carried. Abstained: Jack Lockhart, Sandra Osborn

(Michael Berndt, General Counsel, Jack Lockhart and Sandra Osborn left the room for the deliberation of the proposed decision in the matter of concerning Dr. Frank J. Salvi, MD. Colleen Baird, Legal Counsel, provided legal advice to the Board for the duration of deliberation.)

DELIBERATION OF PROPOSED STIPULATIONS

WILLIAM B. HOBBS, MD

MOTION: Sujatha Kailas moved, seconded by Jerold Harter, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of William B. Hobbs, MD. Motion carried unanimously.

THOMAS C. JOHNSON, MD 09 MED 106

MOTION: Carolyn Bronston moved, seconded by Ian Munro, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of Thomas C. Johnson, MD, 09 MED 106. Motion carried unanimously.

WALTER MELNYCZENKO, MD

MOTION: Raymond Mager moved, seconded by Sheldon Wasserman, to reject the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of Walter Melnyczenko, MD. Motion carried. Abstained: Sandra Osborn

PATRICK J. MURPHY, MD

MOTION: Suresh Misra moved, seconded by Ian Munro, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of Patrick J. Murphy, MD. Motion carried. Abstained: Jerold Harter

JEFFREY C. THOMAS, MD

MOTION: Sujatha Kailas moved, seconded by Jerold Harter, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of Jeffrey C. Thomas, MD. Motion carried unanimously.

DELIBERATION OF PROPOSED STIPULATIONS RECEIVED AFTER THE MAILING OF THE AGENDA

**ASHOK K.V. KUMAR, MD
07 MED 062**

MOTION: Jerold Harter moved, seconded by Jack Lockhart, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of Ashok K.V. Kumar, MD, 07 MED 06. Motion carried unanimously.

**ISSUANCE OF COMPLAINTS RECEIVED IN THE BUREAU AFTER
MAILING OF AGENDA**

**KEVIN A. LANG, MD
09 MED 102**

MOTION: Raymond Mager moved, seconded by Sheldon Wasserman, in favor of a finding of probable cause to issue a complaint in the matter of Kevin A. Lang, MD, 09 MED 102. Motion carried. Abstained: Jerold Harter

**LARRY B. DEAN, MD
08 MED 261**

MOTION: Sujatha Kailas moved, seconded by Suresh Misra, in favor of a finding of probable cause to issue a complaint in the matter of Larry B. Dean, MD, 08 MED 261. Motion carried unanimously. Abstained: Gene Musser

**R.B., MD
06 MED 292**

Please note that the Board chose to issue an administrative warning in this case in lieu of issuing a complaint.

**CONSIDER CLOSING DISCIPLINARY INVESTIGATIONS WITH WARNINGS
RECEIVED IN THE BUREAU AFTER MAILING OF AGENDA**

Deliberation of Administrative Warning in 06 MED 292

MOTION: Suresh Misra moved, seconded by Sujatha Kailas, to issue the administrative warning in case number 06 MED 292. Motion carried unanimously.

DELIBERATION ON ORDER FIXING COSTS

**BRUCE E. GREEFIELD
(LS0706261MED)**

MOTION: Sujatha Kailas moved, seconded by Carolyn Bronston, to approve the Order Fixing Costs in the matter of disciplinary against Bruce E. Greenfield, MD (LS0706261MED), based upon the affidavits of costs submitted by the Division of Enforcement and the Office of Legal Counsel, pursuant to the July 15, 2009 Final Decision and Order of the Board which ordered full costs of the proceedings to be assessed against the respondent. Motion carried unanimously.

MONITORING

**THOMAS GOODRICH, MD
REQUEST FOR FULL LICENSURE**

Thomas Goodrich, MD, appeared before the Board to answer questions.

MOTION: Ian Munro moved, seconded by Sandra Osborn, to approve the request for full licensure in the matter of Thomas Goodrich, MD. Motion carried unanimously.

**KENNETH SPARR, MD
REQUEST OF STAY**

Kenneth Sparr, MD, appeared as mandated by his Board Order for an annual review before the Board to answer questions.

MOTION: Ian Munro moved, seconded by Raymond Mager, to approve the request for continuous stay of suspension in the matter of Kenneth Sparr, MD. Motion carried unanimously.

**THOMAS WEISENBURGER, RCP
REQUEST FOR FULL LICENSURE**

MOTION: Sandra Osborn moved, seconded by Sujatha Kailas, to grant full licensure to Thomas Weisenburger, RCP. Motion carried unanimously.

**JOEL JACOBSON, MD
REQUEST FOR MODIFICATION**

MOTION: Jerold Harter moved, seconded by Sandra Osborn, to grant the request for a reduction in the frequency of urine screens to twenty-eight (28) per year in the matter of Joel Jacobson, MD. Motion carried unanimously.

**MONITORING CASES RECEIVED IN THE BUREAU AFTER
MAILING OF AGENDA**

**VICTORIA FETTER, MD
REQUEST FOR MODIFICATION**

MOTION: Sujatha Kailas moved, seconded by Ian Munro, to deny Victoria Fetter, MD's request for modification and to impose a suspension of licensure which will continue until completion of pre-approved courses has been submitted. Motion carried unanimously.

IMPAIRED PROFESSIONAL PROCEDURE (IPP)

Deliberation Regarding Whether to Allow R.L. to have his IPP Monitoring Handled Primarily by Minnesota's Health Professionals Services Program (HPSP)

MOTION: Ian Munro moved, seconded by Carolyn Bronston, to approve the request submitted by R.L. for his IPP monitoring to be handled primarily by the State of Minnesota's Health Professionals Services Program. Motion carried unanimously.

Consulting with Legal Counsel

Either Michael Berndt or Colleen Baird were present to provide legal consultation to the Board throughout the duration of closed session.

Division of Enforcement – Meeting with Individual Board Members

Noted.

(Dr. Sujatha Kailas and Dr. Bhupinder Saini left the meeting at 1:08 p.m.)

**DIVISION OF ENFORCEMENT
CASE STATUS REPORTS AND CASE CLOSINGS**

07 MED 315, 07 MED 387, 09 MED 050

MOTION: Raymond Mager moved, seconded by Ian Munro, to close cases 07 MED 315, 07 MED 387 and 09 MED 050 for no violation. Motion carried unanimously.

RATIFYING LICENSES AND CERTIFICATES

MOTION: Jerold Harter moved, seconded by Ian Munro, to ratify all licenses and certificates presented. Motion carried unanimously.

ADJOURNMENT

MOTION: Jerold Harter moved, seconded by Ian Munro, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:18 p.m.